

II. JURISDICTION AND VENUE

2.1 Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, and 28 U.S.C. § 1337.

2.2 Venue is proper in this District under 28 U.S.C. § 1391(b) because the Defendants conduct affairs and transact business in this District, the unlawful acts giving rise to this claim occurred in this District, and the Plaintiff resides within the territorial jurisdiction of the Court.

III. PARTIES

3.1 Plaintiff Keri Bruce is a natural person, a resident of Washington State, and a “consumer” as defined by 15 U.S.C § 1692a(3).

3.2 Defendant Pioneer Credit Recovery is a Delaware corporation engaged in the business of collecting debts in Washington State.

3.3 Pioneer Credit Recovery is a “debt collector,” as defined under the FDCPA, 15 U.S.C § 1692a(6).

3.4 Pioneer Credit Recovery is a corporation that regularly uses the mail, telephone, and facsimile, and regularly engages in business with a principal purpose to attempt to collect debts alleged to be due to another.

IV. FACTUAL ALLEGATIONS

4.1 Plaintiff is a debtor with federal student loans that were placed into default status.

4.2 Plaintiff's federal student loans were "debts" as that term is defined by the FDCPA.

4.3 The loans were assigned to Defendant Pioneer for collection purposes.

4.4 Under 34 CFR §34.5, prior to initiating wage garnishment of student loans, Pioneer is required to send a notice of proposed garnishment.

The notice must include an explanation of the debtor's rights, including, but not limited to, those rights found at 34 CFR §34.6. Those rights include the right to inspect and copy records related to the debt, to enter into a written repayment agreement to repay the debt, and to demand a hearing in accordance with 34 C.F.R 34.8 related to the debt.

4.5 Prior to initiating wage withholding to collect on delinquent student loan payments, Pioneer sent a letter to Plaintiff titled "Administrative Wage Garnishment Proceedings Notice". The letter is attached hereto as **Exhibit A** and is referred to hereafter as Letter A.

4.6 In Letter A, Pioneer fails to provide the notice of rights under 34 CFR§34.6, as required by 34 CFR §34.5.

1 4.7 In the alternative, if the “Administrative Wage Garnishment
2 Proceedings Notice” is not the final notice provided to consumers prior
3 to initiating wage garnishment, it falsely and deceptively implies that it
4 is in order to create a false sense of urgency.

5 4.8 In describing the wage garnishment process, Letter A states:

6 This may be your last opportunity to make satisfactory
7 payment arrangements on your student loan(s). If these
8 arrangements are not made, we will begin or continue the
 process of verifying your employment for Administrative
 Wage Garnishment...

9 4.9 Letter A does not disclose to Plaintiff that they can in fact have at least
10 two other methods to avoid a garnishment: request a loan rehabilitation,
11 object to the existence, amount, or current enforceability of a debt, or
12 file for bankruptcy and discharge the debt with an undue hardship
13 exemption.

14 4.10 Contrary to the statement in Letter A, federal law allows Plaintiff to
15 avoid a wage garnishment by submitting a request for a loan
16 rehabilitation. Pending the evaluation of the loan rehabilitation, or
17 during the pendency of the loan rehabilitation, Pioneer is prohibited
18 from initiating a wage garnishment.

1 4.11 Further, contrary to the statement in Letter A, federal law allows
2 Plaintiff to avoid a wage garnishment by objecting to the existence,
3 amount, or current enforceability of the debt.

4 4.12 Further, contrary to the statement in Letter A, federal law allows
5 Plaintiff to avoid a wage garnishment by filing a bankruptcy proceeding
6 and seeking to discharge the debt with an undue hardship exemption.

7 4.13 The debt that Defendant sought to collect from Plaintiff was originally
8 incurred for personal, family, or household purposes.

9 V. STATUTE OF LIMITATIONS

10 5.1 The FDCPA generally has a one-year statute of limitations. 15 U.S.C.
11 § 1692k(d).

12 5.2 Pioneer sent Letter A to Plaintiff on or about September 11, 2016.

13 5.3 On June 27, 2016, Defendant Pioneer was sued in a nation-wide class
14 action for the same conduct complained of herein. *Biber v. Pioneer*
15 *Credit Recovery, Inc.* case # 1:16-cv-00804-TSE-IDD (EDVA).

16 5.4 Plaintiff was a member of the *Biber* class who opted-out in November
17 2017.

18 5.5 Under *Am. Pipe & Const. Co. v. Utah*, 414 U.S. 538, 94 S. Ct. 756, 38
19 L. Ed. 2d 713 (1974), Plaintiff's claims herein were tolled until she
20 opted out of the *Biber* class settlement.

1 5.6 Plaintiff filed her individual claim within one year of the date she opted
2 out of the *Biber* class action.

3 5.7 Plaintiff's claim is therefore timely filed within the FDCPA statute of
4 limitations.

5 VI. FIRST CAUSE OF ACTION
6 Violations of the Fair Debt Collection Practices Act
7 15 U.S.C §1692 *et seq.*

7 6.1 Plaintiff repeats, reiterates, and incorporates the allegations contained
8 in the paragraphs above herein with the same force and effect as if the
9 same were set forth at length herein.

10 6.2 Pioneer violated the FDCPA by falsely representing that it was going
11 to perform an Administrative Wage Garnishment, without first
12 providing the notices required by 34 CFR § 34.5 and 34.6. In the
13 alternative, Pioneer falsely implied that the Administrative Wage
14 Garnishment Proceedings Notice was the Notice of Proposed
15 Garnishment required under 34 CFR §34.5. Pioneer's violations
16 include, but are not limited to, the following:

17 A. It falsely represented it had the authority to garnish wages at the
18 time of the letter, if payments were not made at that time, in
19 violation of 15 § 1692e, 1692e(4), 1692e(5), and 1692e(10).

1 B. It falsely represented the character, amount or legal status of the
2 debts, in violation of 15 U.S.C. § 1692e, 1692e(2)(A), and
3 §1692e(10).

4 6.3 Pioneer further violated the FDCPA by falsely representing Plaintiff
5 can avoid a wage garnishment by entering into a repayment agreement,
6 without further disclosing that Plaintiff could also avoid a wage
7 garnishment by submitting a loan rehabilitation application. Pioneer's
8 violations include, but are not limited to, the following:

9 A. It falsely represented that a wage garnishment could only be
10 stopped by paying the loan in full or entering into a written
11 agreement with Pioneer, in violation of 15 U.S.C. §§ 1692e and
12 1692e(10)

13 B. It falsely represented the character, amount or legal status of the
14 debts in violation of 15 U.S.C. §§ 1692e, 1692e(2)(A), and
15 1692e(10).

16 6.4 Pioneer further violated the FDCPA by falsely representing Plaintiff
17 can avoid a wage garnishment by entering into a repayment agreement,
18 without further disclosing that Plaintiff could also avoid a wage
19 garnishment by filing for bankruptcy and seeking to discharge the debt

1 with an undue hardship exemption. Pioneer's violations include, but
2 are not limited to, the following:

3 A. It falsely represented that a wage garnishment could only be
4 stopped by paying the loan in full or entering into a written
5 agreement with Pioneer, in violation of 15 U.S.C §§ 1692e and
6 1692e(10).

7 B. It falsely represented the character, amount, or legal status of the
8 debts, in violation of 15 U.S.C §§ 1692e, 1692e(2)(A), and
9 1692e(10).

10 6.5 Under 15 U.S.C. § 1692k, Pioneer is liable to the Plaintiff to whom it
11 sent the letter.

12 6.6 By reason thereof, Defendant is liable to Plaintiff for judgment that
13 Defendant's conduct violated §1692e *et seq.* of the FDCPA, actual
14 damages, statutory damages, costs and attorney's fees.

15 VII. PRAYER FOR RELIEF

16 WHEREFORE, Plaintiffs demand judgment against Defendant as follows:

17 7.1 Awarding Plaintiff statutory damages;

18 7.2 Awarding Plaintiff actual damages;

19 7.3 Awarding Plaintiff's costs of this Action, including reasonable
20 attorney's fees and costs; and

1 7.4 Awarding Plaintiff such other and further relief as the Court may deem
2 just and proper.

3 DATED this 23rd day of January, 2018.

4 *Kirk D. Miller P.S.*

5
6 /s Kirk D. Miller
7 Kirk D. Miller, WSBA #40025
8 Attorney for Plaintiff
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